

STATE OF VERMONT  
HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 9343
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare that she is liable to repay the department \$885 for an overpayment of Food Stamps. The issue is whether the overpayment resulted from the petitioner's inadvertent error or an administrative error on the part of the department.

FINDINGS OF FACT

The petitioner applied for Food Stamps in February, 1988. She filled out a "Statement of Need" form with an intake worker at the department's district office. On the form the petitioner checked "no" to a question inquiring whether she had unearned income from one or more specific sources. However, the petitioner also circled the words "child support" on the form.

Although the memories of both the petitioner and the intake worker are now understandably hazy, based on their testimony it is found that the petitioner told the worker that she expected to begin receiving child support payments for her two children in the near future. It is also found that the worker informed the petitioner of her responsibility to report this income to the department when and if she received it.

The form itself, as well as a separate notice given to the petitioner at that time, also informed the petitioner of her responsibility to report changes in her household's circumstances. The department then granted the petitioner food stamps in an amount that did not reflect the receipt of child support payments.

Shortly after she began receiving Food Stamps, the petitioner also began receiving her child support checks. Through inadvertence, and probably through confusion as well, the petitioner neglected to report this income to the department until June, 1988, when her case was "reviewed" by another worker as part of the department's routine policy. Unfortunately, the child support income rendered the petitioner ineligible for Food Stamps, and her grant was terminated. Because the department determined that her past failure to report the child support income was due to inadvertence rather than intent, and because the petitioner was no longer receiving food stamps, the department took no immediate action regarding the overpayment of Food Stamps that had occurred between February and June, 1988.

The petitioner reapplied for Food Stamps in July, 1989. At that time the department notified her that she would be liable to repay the \$885 that she was overpaid the previous year.

ORDER

The department's decision is affirmed.

REASONS

It is important to note that the department does not allege that the petitioner intentionally failed to report the receipt of the child support during the period in question. The hearing officer found the petitioner to be an extremely honest and sincere individual who was neither familiar with nor comfortable receiving public benefits. Her failure to report the receipt of child support was clearly unintentional.

On the other hand, however, the caseworkers in the petitioner's case also struck the hearing officer as being extremely competent, thorough, and candid. There is no basis to conclude--and the petitioner does not allege--that the workers were in error in failing to note the petitioner's receipt of child support sooner than when the petitioner brought it to their attention.

Federal regulations require that when an overpayment of food stamps is caused by "a misunderstanding or unintended error on the part of the household" rather than by an error of the agency the household is liable to repay the amount overpaid. Food Stamp Manual §§ 273.18(a)-(c). The regulations also require that the rate of recoupment of these overpayments "shall be the greater of 10 percent of the household's monthly allotment or \$10 per month." Id. § 273.18(g)(i). This means that despite the petitioner's lack of intent, she must repay the overpayment.

Since the department's decision in this matter comports

with the applicable regulations, it must be affirmed. 3

V.S.A. § 3091(d) and Food Stamp Fair Hearing Rule No. 17.

# # #